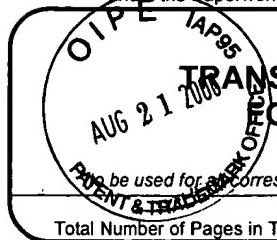


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#### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Customer No. 34018 Greenberg Traurig, LLP		
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Date	August 16, 2006	Reg. No.	35,906

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Arling et al. ) Examiner: Yenke, Brian P.  
Serial No.: 09/718,931 )  
Filed: November 21, 2000 ) Art Unit: 2614  
Title: Media Return System ) Attorney Doc.:81230.578001

REPLY BRIEF

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P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellant hereby submits this Reply to the Examiner's Answer dated June 19, 2006.

This Reply Brief is being filed in triplicate.

The Commissioner is hereby authorized to charge any fee deficiency or credit overpayment to deposit account number 50-2428 in the name of Greenberg Traurig.

Certificate of Mailing: I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail, postage prepaid, in an envelope addressed to: Mail Stop Appeal Briefs – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16th day of August, 2006.

By: Ranni Matar  
Ranni Matar

## REMARKS

In accordance with 37 CFR §§ 41.41(a)(1) and 41.43(b), Appellant hereby submits this Reply Brief in response to the Examiner's Answer.

As set forth in the Appellant's Appeal Brief, it is respectfully submitted that Hesse fails to disclose the identical invention in as complete detail as is contained in the claims, i.e., each and every element considering each and every word, and, for at least this reason, the rejection under 35 U.S.C. § 102 must be withdrawn. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

The invention claimed by Appellant is directed to a system and method for effecting a return to channel operation of a media playing device by, among other things, storing a primary channel indicator in a memory of a remote control in response to a first user action with the remote control and starting *a timer* of the remote control *that times a predetermined time interval in response to a second user action* with the remote control such that, upon expiration of the predetermined *time interval timed by the timer*, the remote control is caused to send a command corresponding to the primary channel indicator to the media playing device to return the media playing device to the primary channel.

In contrast to that which is expressly claimed, Hesse discloses a remote control having an "auto" mode which uses *a real time clock that keeps actual time of the day*, a scanner for scanning information stored in memory by a user and for comparing that information with the actual time of day as kept by the real-time clock, and an actuator for effecting a command signal from the remote control to an appliance *only when the real time specified by the information entered into memory by the user matches the actual time of day on the real time clock.* (Col. 2, lines 52-63). In the "auto" mode of Hesse, the remote control is programmed by inputting a

sequence of commands (e.g., the date and the real time an appliance should be turned on **and** the date and the real time the appliance should be turned off) which commands are carried out in response to the real time clock achieving the scheduled real times thereby eliminating any need to manually operate the remote control once it has been programmed. (Col. 3, lines 49-52 and Col. 9, lines 6-19). Thus, it is evident that the remote control of Hesse not only fails to have a timer that times a predetermined time interval but further fails to start any time measured operation in response to a user action with the remote control as is claimed.

Considering further the exact example provided by the Examiner in the rejection of the claims, a user may program the remote control of Hesse to record a first channel (e.g., channel 5) for some day in the future for a time of 30 minutes, program the remote control to record a second channel (e.g., channel 6) for the same day immediately preceding the recording of the first channel, and further program the remote control to again record the second channel (e.g., channel 6) on the same day after the time during which the first channel (e.g., channel 5) was recorded. However, as expressly described within Hesse, to perform this recording procedure the user must store in the memory of the remote control the day and the exact real times between which the second channel (e.g., channel 6) is to be first recorded (i.e., by entering both the starting and stopping real times), the day and the exact real times between which the first channel (e.g., channel 5) is to be next recorded (i.e., by entering both the starting and stopping real times), and the day and the exact real times between which the second channel (e.g., channel 6) is to be again recorded (i.e., by entering both the starting and stopping real times). The starting and stopping of the recording of the designated channels will then take place without any user action with the remote control and only when the real time clock of the Hesse remote control matches the exact real times of the recording instructions as entered by the user into the Hesse

remote control. From this procedure, while the entering by the user of both a starting and stopping real time may result in a program being automatically recorded over a 30 minute time interval at some time in the future, it will be evident that *nothing within the remote control of Hesse actually functions to specifically time that 30 minutes* (or any other predetermined time interval), let alone to start the timing of that 30 minutes in response to a user action, to thereby return the recording device to the second channel for recording. As expressly set forth within Hesse, the remote control of Hesse issues commands to start and stop the recording device only in response to the real time specified by the information entered into memory by the user matching the real time maintained by the real time clock. Thus, it is respectfully submitted that the remote control of Hesse never times, i.e., never keeps track of, a predetermined time interval and never starts timing in response to a user action. Instead, the remote control of Hesse only keeps track of *user established, singular points in exact time* at which some user designated action is to be automatically performed in the future, e.g., at 5:00 on some date the recording of the first channel is to be started and at 5:30 on that same date the recording of the first channel is to be stopped and the recording of the second channel is to be again started.

The distinction between using a timer which times a predetermined time interval and which is started in response to a user action as claimed as opposed to the use of a real time clock and user established, singular points in exact time as disclosed in Hesse is further illustrated when considering the exact application for which the claimed invention is advantageously used. In this regard, the use of a user started timer to measure a predetermined time interval allows the claimed remote control to be repeatedly and instantly used any time a commercial might appear on a media playing device to provide a return to channel scanning operation. Meanwhile, to use the system described within Hesse for this same purpose a user would have to anticipate and

enter into the memory of the Hesse remote control the exact, singular point in real time a commercial is to start as well as the exact, singular point in real time the commercial is to end with any resulting action performed in response to the real time clock achieving a user entered time being unrepeatable until such time as the remote control of Hesse is further programmed in this same manner.

From the foregoing it is evident that Hesse simply fails to disclose, teach, or suggest the identical invention claimed. For example and as acknowledged by the Examiner, Hesse simply fails to disclose, teach, or suggest a remote control in which *a user action starts a timer of the remote control that times a predetermined time interval* and which is caused to transmit a command signal to return a media playing device to a primary channel *upon expiration of the predetermined time interval as timed by the user started timer*. For this reason it is respectfully submitted that the rejection of claims 6, 8, and 15-18 under 35 U.S.C. § 102 must be withdrawn.

It is further respectfully submitted that the combination of Hesse and Kuno (JP 10145634) newly raised in the Examiner's Answer fails to render the invention set forth in the claims, particularly claims 7, 9, 11, and 19, obvious under 35 U.S.C. § 103. In particular, the Examiner has asserted that Kuno evidences that it would have been obvious to modify Hesse to include the activation of a button (manually) to activate a timer to cause the issuance of a command to return to an original program after a predetermined time and also allowing a user to return to the original program prior to the timed interval expiring.

In response, it is respectfully submitted that Kuno fails to disclose, teach, or suggest the desirability of storing *in a remote control* a current channel being viewed and starting *a timer in a remote control* so a user can scan channels with *the remote control* then transmitting a command to cause a device to return to the current channel upon the timer timing a

predetermined time period. Rather, Kuno discloses a system having the very disadvantages the claimed invention seeks to overcome. In this regard, Kuno discloses a system in which a dedicated remote control is required to issue a specific scanning command to a specific device (TV timer 2) and the specific device (TV timer 2) is programmed to recognize the specific scanning command and respond to the specific scanning command by storing a channel number and a scanning time to thereby allow the specific device (TV timer 2) to transmit a command to a television to return the television to the channel number upon expiration of the scanning time. It will thus be evident that Kuno fails to disclose, teach, or suggest the desirability of the claimed system which allows a return to channel feature to be implemented in a universal remote control usable in connection with any device, even those devices not equipped with a return to channel feature, but instead discloses, teaches, and suggests a system in which a dedicated remote control only works with a specific channel scanning device (TV timer 2) that is specifically equipped to recognize a specific command issued from that dedicated remote control to thereby provide a return to channel feature, i.e., without the TV timer 2 - which is the only device adapted to recognize the specific scanning command issued from the remote control - the remote control of Kuno cannot be used with any device to provide a return to channel feature. Accordingly, it is respectfully submitted that, were one of skill in the art to follow the express teachings of Kuno when Kuno is considered in its entirety as is required, one of skill in the art would not arrive at the invention claimed but would instead be directed to modify the remote control of Hesse to thereby cause the remote control of Hesse to transmit a specific channel scanning command to a specific, external device, such as a TV timer, which is the only device that is capable of recognizing and responding to the specific channel scanning command transmittable from the remote control. For these reasons it is respectfully submitted that the combination of Hesse and

Kuno fails to establish a *prima facie* case of obviousness and the rejection under 35 U.S.C. § 103 must be withdrawn.

Conclusion

It is respectfully submitted that, when the claims are considered *as a whole*, the claims are neither anticipated by nor rendered obvious by Hesse, alone or in combination with Kuno. As such, it is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Board is respectfully requested.

Respectfully Submitted;

Date: August 16, 2006

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